



## Malawi

### Country Reports on Human Rights Practices - [2001](#)

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President Bakili Muluzi of the United Democratic Front (UDF) party leads the Republic of Malawi, which on June 15, 1999, held its second democratic presidential and parliamentary elections since independence in 1964. Independent observers concluded that the elections were free and substantially fair; however, there was limited opposition access to media and problems in voter registration, and the opposition lost appeals of the results in the courts. The seven parliamentary by-elections held since 1999 have been marred by violence, allegations of vote fraud, and contested results. Constitutional power is shared between a popularly elected president and the 193-member National Assembly. The UDF has 96 seats in the National Assembly; the Malawi Congress Party (MCP) has 61 seats; Alliance for Democracy (AFORD) has 30 seats; and there are 6 independent members. There is no clear-cut ideological difference among the three political parties. The Government respects the constitutional provisions for an independent judiciary; however, the judicial system is inefficient and lacks resources.

The National Police, headed by the Inspector General of Police under the Ministry of Home Affairs, are responsible for internal security. The police occasionally called on the army for support. There continued to be credible allegations that the police committed human rights abuses.

The country is very poor, with a narrow economic base characterized by a small and highly concentrated industrial sector, low levels of foreign and domestic investment, and few mineral resources. There is little industry and mining. The country's population is estimated to be 10,386,000. Agriculture dominates the economy, contributing nearly half of its gross national product and employs more than 80 percent of the labor force. Tobacco, tea, and sugar generated more than 70 percent of export earnings, with tobacco providing the largest share (approximately 60 percent). The country is landlocked, but improved rail service to the Mozambican deepwater port of Nacala, subsequent to the December 1999 privatization of Malawi Railways, lowered somewhat the share of transport costs for the country's imports. The Government continues to move forward with its multisector privatization program and endorsed private sector participation in infrastructure. Wealth remained concentrated in the hands of a small elite. Annual per capita income was approximately \$180 (MK 11,800). Average annual inflation was 30 percent in 2000, down from 44.9 percent in 1999.

The Government generally respected the human rights of its citizens in many areas; however, its record in other areas was poor, and serious problems remained. There were extrajudicial killings, including deaths of detainees while in, or shortly after release from, police custody. The police are known to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. Prison conditions remained harsh and life threatening and resulted in a large number of deaths. Arbitrary arrest and detention are common, and lengthy pretrial detention is a serious problem. An inefficient, understaffed, and underfunded judicial system limited the ability of defendants to receive a timely, and in some cases, fair trial. Security forces at times infringed on some privacy rights. The print media were able to report freely; however, there were a few exceptions, and there was some self-censorship. The seven private radio stations experienced relative freedom in broadcasting international news and entertainment programming; however, the Government continued to control news coverage and editorial content at the state-owned Malawi Broadcasting Corporation's (MBC) two radio stations. At times police used force against demonstrators. Violence against women is common, and women continued to experience severe societal discrimination. The Government took steps in its economic development programs to assist disadvantaged women. Abuse of children remained a problem. Child labor, including instances of forced child labor, also was a problem. There were reports of trafficking in persons. Mob violence triggered by anger over high levels of common crime resulted in mob executions of alleged criminals.

RESPECT FOR HUMAN RIGHTS

## Section 1 Respect for the Integrity of the Person, Including Freedom From:

### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, there were extrajudicial killings, including deaths of detainees while in, or shortly after release from, police custody. These deaths involved possible use of excessive force or possible negligence. Unlike in the previous year, there were no confirmed reports that prison officials beat to death any prisoner. A large number of prisoners died largely due to harsh prison conditions (see Section 1.c.). Inquests into deaths while in custody are not routine.

On November 27, Evison Matafale, a popular reggae star, died while in police custody. Matafale was in poor health, and it is believed that he died of natural causes; however, there were allegations of police negligence and use of force. An investigation was ongoing at year's end.

On December 11, police forcibly dispersed a student demonstration and shot and killed a student demonstrator (see Section 2.b.). An investigation was ongoing at year's end.

In 2000 prison guards beat a prisoner to death; seven prison guards were charged in the killing. On March 20, the High Court sentenced five guards to 18 years in jail; the case against two others was discontinued due to insufficient evidence.

In August 1999, police shot and killed a former Eritrean detainee and injured six others in a confrontation in Lilongwe. No action is likely to be taken against the police (see Section 2.d.).

Frustrated by inadequate law enforcement and rising crime, angry mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals to death. In March in the town of Mulanje, an angry mob beat to death a man charged with armed robbery following his release by authorities.

Serial killings, which occurred during a 3-month period in 2000, brought international attention to the country. During the course of the investigations in February and March 2000, police detained and held approximately 25 suspects. One of the suspects died while in police custody, allegedly due to police abuse. In May 2000, the Director of Public Prosecutions charged 4 suspects with the killings and scheduled 19 suspects for release. Realizing the potential for mob justice or independent acts of violence against the released suspects, police and prosecutors mounted a public information campaign, including town meetings. The 19 suspects were released in June 2000 and were able to return to their communities without incident. In September 2000, the Director of Public Prosecutions dropped the charges against one of the four charged suspects; in October 2000, two of the suspects were sentenced to death, and one was acquitted. The two sentenced to death appealed the conviction. In October the Supreme Court of Appeals dropped all charges against one suspect, but the Court upheld the conviction against the second suspect. Although the one remaining suspect in custody was sentenced to death, the death penalty has not been implemented; the President stated publicly that it would not be used while he is in office.

### b. Disappearance

There were no reports of politically motivated disappearances.

### c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, police continued to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. The Inspectorate of Prisons is an investigative body mandated by the Constitution, and the findings of its 2000 report are considered indicative of prison conditions by domestic and international nongovernmental organizations (NGO's). The report notes that techniques used by police included beatings, physical assault, and the use of wire instead of handcuffs to restrain prisoners and to force confessions. Police sometimes hide these abuses by keeping prisoners in police custody until wounds heal before turning them over to the prison system for remand. The mistreatment partly is due to the mistaken belief of many police officers that the law requires them to present a case (not just charges) to the court within 48 hours of arrest. Lack of financial resources for appropriate equipment, facilities, and training also contributed to mistreatment.

Police forcibly dispersed two demonstrations during the year (see Sections 1.d. and 2.b.). Police used tear gas, rubber bullets, and live ammunition, which resulted in injuries; one demonstrator was shot and killed.

Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (see Section 5). While higher-ranking officials demonstrated familiarity with new standards for the humane treatment of prisoners, their subordinates commonly employed unacceptable techniques. The Government continued to seek community involvement in its comprehensive reform of the police. In 1999 Parliament created a community service alternative for some offenders. Four cities have begun pilot community service programs.

There was no known action taken against members of the police who used excessive force when dispersing demonstrations in May and June 2000.

Prison conditions remained harsh and life threatening. The Inspectorate of Prisons was compiling a report on prison conditions during the year; however, it was not completed by year's end. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. Unlike in the previous year, there were no confirmed reports that prison officials beat any prisoner to death.

According to the 2000 Inspectorate of Prisons report, 140 persons died in prison in 1998. Most of the deaths resulted from disease, including tuberculosis and HIV/AIDS. In 1999 213 prisoners died at Zomba central prison. Although women are not kept in separate facilities, they are segregated within the prison compound and tended by female guards. Although four prisons are supposed to have separate facilities for juveniles, the separation is inadequate in practice. In the other prisons, juveniles are incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons cannot comply with this law due to lack of space and inadequate facilities.

The Inspectorate of Prisons, domestic NGO's, and international NGO's are permitted to make visits to monitor prison conditions without government interference. NGO's report good collaboration with prison authorities. During the year, the Prison Reform Committee, with representatives of approximately 20 NGO's and the Office of the Inspectorate of Prisons visited many of the prisons.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution grants the accused the rights to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court of law within 48 hours; however, these rights seldom are respected in practice. The use of temporary remand warrants is widespread and used to circumvent the 48-hour rule. Police often resort to beatings to obtain information deemed necessary to their cases (see Section 1.c.). In cases where the court determines that a defendant cannot afford to supply his own counsel, legal services are provided by the Government. With few persons able to afford legal counsel, the country's seven public defenders were not sufficient to represent all indigent detainees in a timely manner. Bail frequently is granted to reduce prison overcrowding. Its use often bears only a tenuous relationship to the merits of an individual's situation. At year's end, there were 7,920 inmates, 5,491 were convicted prisoners, and 2,401 were pretrial detainees. Only 19 juveniles were in detention. Police are accused of arbitrary arrests due to political motives.

Following the dispersal by police of a rally on January 15, police arrested the Mayor of Blantyre and three senior police officials (see Section 2.b.). On February 5, the High Court of Blantyre sentenced the Mayor and the police officials to an 18-month suspended sentence.

In 2000 police detained approximately 25 suspects in connection with a series of murders (see Section 1.a.).

The Government does not use forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, the judicial system is inefficient and is handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, a heavy caseload, and a lack of resources.

The Constitution provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The Chief Justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the Parliament.

On November 2, members of the UDF ruling party submitted motions in the National Assembly to impeach three High Court justices on allegations of judicial misconduct and incompetence. The National Assembly curtailed the Judicial Service Commission investigation into the cases and voted in favor of removal of the three justices on November 14. On December 10, the President dropped all charges against one justice and ordered the Judicial Service Commission to reconvene to complete its assessment of the allegations against the remaining two justices. No further action was taken by year's end.

By law defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court used juries of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, and the right of appeal. However, the judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. In 2000 the Department of Public Prosecutions, under the Ministry of Justice, hired 12 paralegals to help reduce the case backlog and assist the very small staff of 10 prosecuting attorneys. The paralegals are to serve as lay prosecutors and to prosecute minor cases in the magistrate courts.

Since 1999 the High Court conducted training for 169 lay magistrates. Traditional court judges, absorbed into the magistrate court system, also receive some training in court procedure and the body of law that they administer. In 1999 the High Court began a 2-month refresher-training program for traditional court judges; however, the program did not continue after 1999. In August High Court judges attended a weeklong workshop on human rights and conflict resolution.

In 2000 Parliament passed the Courts Amendment Bill that was aimed at increasing the civil jurisdiction of magistrates, simplifying small claims procedures, and giving magistrate courts jurisdiction over customary marriages. Since the law was implemented, more cases are handled by magistrate courts than in the past had been referred to the High Court.

Juvenile offenders have special rights under the Constitution, including the right to be separated in custody from adults, to be treated in a manner that recognizes their age and the possibility for rehabilitation, and to be exempt from the punishment of life imprisonment without the possibility of release. However, the protection they are accorded in principle often is denied in practice, and many juvenile offenders are incarcerated with adults (see Section 1.c.).

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respects these prohibitions in practice; however, army and police forces, in carrying out sweeps for illegal weapons, did not always obtain search warrants as required by law.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some exceptions. Limited self-censorship exists, in part due to habits that evolved during the country's 30-year single party political system, which ended in 1994.

In December a prominent businessman who is a member of "Concerned Citizens of Malawi" was arrested on charges of sedition. He reportedly wrote more than 100 letters criticizing government policy, the President's alleged shortcomings, and deteriorating democratic standards in the country. At year's end, the case was pending in the High Court.

A broad spectrum of political and ideological opinion is presented in the country's two dozen newspapers, usually without government interference. However, the Government continued to threaten and harass members of the media. Unlike in the previous year, police did not confiscate the cameras of any photographers.

In May a journalist, a printer, and four newspaper vendors were arrested for distributing an edition of The Dispatch newspaper, which contained articles that the Government stated would "cause public fear and alarm." The paper reported on a plot to impeach President Muluzi and allegations of government corruption made by the opposition. The six were released on bail, and the case was pending at year's end. The Dispatch

newspaper was not published after the arrests.

In December police threatened two journalists for their coverage of police action against street vendors in Limbe. Police officers demanded that the journalists either surrender their camera or give up the digital camera diskettes with the photographs. A senior police official intervened, and the journalists were permitted to leave with their camera and diskettes.

The editor of the main opposition newspaper, The Daily Times, was suspended in 2000 by the editor-in-chief and subsequently replaced by an acting editor more inclined to refrain from publishing articles critical of the Government. In November a new editor was hired for the newspaper, and he has printed nonpartisan articles critical of the Government.

The state-owned Malawi Broadcasting Corporation (MBC) dominates the radio market with its two stations, transmitting in major population centers throughout the country. News coverage and editorial content clearly are progovernment. In 2000 four employees of MBC allegedly were suspended due to insufficient loyalty to the ruling party. The Office of the Ombudsman began an investigation of the incident; however, the High Court ruled that the Ombudsman had no jurisdiction on labor related matters. The Ombudsman appealed to the Supreme Court in September; however, the case still was pending at year's end.

There are seven private radio stations; all broadcasting on FM frequencies. There are two commercial stations broadcasting in Blantyre. There is a rural community radio station run by local women with the help of the Malawi Media Women's Association. In May the Malawi Institute of Journalism opened a private training-commercial radio station. Three religious stations broadcast in the capital and other major cities. MBC-TV is the country's sole television broadcaster.

The MBC consistently denied opposition candidates equal access to the media during the 1999 presidential and parliamentary election campaigns and the 2000 local government campaigns in violation of the law. In contrast slogans and songs of the ruling UDF party advertising upcoming political rallies are broadcast throughout the year. The Government began limited television broadcasting in 2000 with editorial control similar to that on MBC radio.

In 1999 the Government established the Malawi Communication Regulatory Authority (MACRA), an independent regulatory body, to issue broadcasting licenses for radio, television, and Internet service providers (ISP). The Government split the state-owned Malawi Posts and Telecommunication Corporation (MPTC) into the Malawi Posts Corporation (MPC) and the Malawi Telecommunications Limited (MTL) in preparation for the privatization of MTL. There are two cellular telephone service providers and seven ISP's. Between February and October 2000, MACRA issued licenses to an additional nine ISP's, but only seven commenced operations by the end of 2000. During the year, two additional ISP's were issued licenses.

The Government does not restrict academic freedom. In March the support staff at the University of Malawi went on strike because of wages (see Section 6.a.). In December police forcibly dispersed a student demonstration at Chancellor College in Zomba (see Section 2.b.).

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, there were instances in which police limited this right.

Authorities routinely granted official permits, which are required by law for large meetings. However, on January 15, in Blantyre police broke up a rally by an opposition political group, the National Democratic Alliance. Police fired tear gas and rubber bullets at the crowd, but no serious injuries were reported (see Section 1.d.). The mayor and three senior police officials were charged with contempt of court as a previous court order had been issued authorizing the rally to take place.

On December 11, police used tear gas in an attempt to disperse a student demonstration at Chancellor College. The police subsequently fired automatic weapons in the air to control the crowd. One student protestor was shot in the chest and later died in the hospital; a bystander also was hospitalized after a bullet grazed his neck. In late December, a joint commission of police and college representatives convened to investigate the incident; the results of the investigations were not released by year's end.

No action was taken against police responsible for using excessive force to disperse demonstrations in May and July 2000.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government requires organizations, including political parties, to register with the Registrar General in the Ministry of Justice. There were no reports that any groups were denied registration during the year.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There are no separate requirements for the recognition of religions, but religious groups must register with the Government. There were no reports that the Government refused to register any religious group during the year.

Some opposition politicians and clerics have raised Islam as a political issue. Citing the President's adherence to Islam, his contact with Islamic countries such as Libya and Sudan, and the building of new mosques, some opposition politicians and clerics have accused the UDF of attempting to "Islamicize" the country. An attempt by the Government in 2000 to replace "Bible Knowledge" in the school curriculum with the more universal "Moral and Religious Education" course has met with widespread criticism from Christian leaders. In 2000 when the President suspended the introduction of the new curriculum and returned "Bible Knowledge" to the curriculum, Muslim leaders rebuked him. Consultations between government and religious leaders resulted in a compromise; both courses were offered as optional subjects in schools during the year.

Foreign missionaries experienced occasional delays in renewing employment permits, despite the Government's revision of its policy and procedures on temporary employment permits in 1997; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy against foreign missionaries. Missionaries and charitable workers pay lower fees for employment permits than do other professionals.

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respects them in practice.

Following a strike by hospital workers in September, the strike's leaders were restricted from traveling outside the country pending prosecution on charges of endangering patients (see Section 6.a.)

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, there are long delays in the process. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees. According to the UNHCR, the country hosted more than 5,500 refugees, primarily from the Democratic Republic of the Congo, Rwanda, and Burundi, at the country's refugee center in Dowa. The World Food Program estimated the refugee population to be 4,300 refugees. The majority of refugees reside at the Dzaleka camp, and the UNHCR estimates that approximately 200 new refugees arrived each month. Although the Government grants refugee status, the law does not accept refugees for permanent resettlement and does not permit them to work or study; however, while no legal framework exists, the Government has allowed refugees to seek both employment and educational opportunities. UNHCR, NGO's, and the Government collaborated to provide children in refugee camps with access to education. A new school was completed at the Dowa refugee camp during the year.

The country has provided first asylum to numerous refugees, including more than 1 million Mozambicans in the late 1980's and early 1990's. The country continues to provide first asylum to new refugees as required. Asylum applicants are granted hearings to make their case for asylum status. The Government denied asylum to many of the Rwandans and Congolese who either had requested asylum in another country or had the opportunity to do so.

In 1999 the Government denied the UNHCR access to a group of 25 Eritrean detainees with fraudulent visas. Police killed one detainee and forcibly returned the remaining detainees to Ethiopia (see Section 1.a.).

Unlike in previous years, there were no reports of the forced return of persons to a country where they feared persecution.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens

18 years of age and older. International election observers found the 1999 presidential and parliamentary elections to be free and substantially fair; however, the electoral process was flawed, as opposition access to the broadcast media was limited; there were voter registration problems in some areas of the country; and the Electoral Commission at times displayed bias in favor of the ruling party. President Muluzi was reelected to serve a second 5-year term, defeating Gwanda Chakuamba, the joint presidential candidate of the two leading opposition parties, the MCP and AFORD. The opposition challenged the outcome of the presidential vote, and in May 2000, the High Court ruled in favor of the President. In October 2000, the Supreme Court of Appeal upheld the High Court ruling in favor of the President.

President Muluzi, First Vice President Justin Malewezi, and a 35-member cabinet exercise executive authority. The second vice-presidency remains vacant. The executive exerts considerable influence over the legislature; the legislature follows the parliamentary system, and consequently a number of cabinet ministers also sit as Members of Parliament (M.P.'s). Although the Government and opposition have never reached agreement on the applicability of the 1997 High Court ruling that cabinet ministers cannot simultaneously sit as M.P.'s, the issue is not a topic of debate.

Local government elections to select councilors and mayors, as mandated under the law, were held in November 2000, and were conducted in an open and transparent manner according to local and international observers; however, they were marked by low voter turnout, allegations of voter and candidate intimidation, and unequal access to the media. The ruling UDF won more than 70 percent of the seats; opposition parties and some NGO's criticized the Government for manipulating the process.

Although the Government does not prevent the operation of opposition political parties, the parties continue to allege that the Government uses bribery and other inducements to encourage opposition party divisions and defections of key personnel to the ruling party.

The percentages of women and minorities in government and politics do not correspond to their percentages of the population; however, there are no laws that restrict the participation of women or minorities in the political process. Eight of the 35 cabinet members are women; women hold 17 of the 193 seats in the National Assembly. A citizen of European origin, several persons of mixed racial ethnicity, and an Asian are sitting members of the National Assembly.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views.

In 1999 the international human rights organization, Article 19, released a report that claimed that President Muluzi, senior government officials, and UDF leaders refused to support investigations or the creation of a proposed independent commission of inquiry into human rights abuses during the Banda regime because they feared that they would be implicated.

The Ombudsman is mandated by the Constitution to investigate and take legal action against government officials responsible for human rights violations and other abuses. The Ombudsman's freedom of action is circumscribed by legislation that requires a warrant and a 3-day waiting period to gain access to certain government records. The activities of the Ombudsman are subject to judicial review, and in a 2000 case involving MBC employees allegedly dismissed on political grounds, the Supreme Court upheld a constitutional provision that granted the Ombudsman discretionary authority to investigate any and all cases where it is alleged that a person has suffered injustices, except when there is a judicial remedy available (see Section 2.a.).

The Constitution provides for a National Compensation Tribunal (NCT) to adjudicate claims of criminal and civil liability against the former government. As of September, the NCT had registered more than 17,600 claims, of which 550 have been fully compensated and 5,800 have been awarded interim compensation payments. The NCT's constitutional mandate did not allow it to register new claimants after December 31; however, it intended to continue processing outstanding claims. The NCT's lack of funds limits its ability to settle claims.

The constitutionally mandated Human Rights Commission (HRC) is charged to monitor, audit, and promote human rights provided for under the Constitution, and to carry out investigations regarding violations of any human rights. The Human Rights Commissioners have met more than 17 times since February 1999. Despite

limited resources, in September the HRC issued its 2000 Human Rights Report, which described 172 complaints of human rights violations such as overcrowding and poor sanitation in prisons, lack of proper medical attention to sick prisoners, political violence during the Kasungu by-elections, long periods of pretrial detention, and the lack of opposition access to the media during elections. The Government has refuted publicly the report's findings. The HRC also has demonstrated its independence from the Government. For example, in 2000 the HRC released a statement criticizing a presidential decree to round up commercial sex workers, describing the decree as unconstitutional and gender biased in its targeting of women.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution specifically provides for equal rights for women; forbids discrimination based on language, culture, or religion; and provides for equality and recognition before the law for every citizen; however, in practice the capacity of government institutions to assure equal rights for all citizens is limited.

#### Women

Domestic violence, especially wife beating, is common. Society has begun to take the problem of violence against women seriously. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape. However, domestic violence seldom is discussed openly by women, reportedly even among themselves, and in part due to the lack of resources. In April an NGO in Lilongwe established the country's first confidential shelter for women who are victims of physical or sexual abuse. Between April and December, 72 women sought protection at the shelter. Police do not normally intervene in domestic disputes.

Press coverage of domestic violence increased substantially following a November conference sponsored by NGO's in cooperation with the Ministry of Gender, Youth, and Community Service called "Sixteen Days of Activism." Subsequent workshops were sponsored by NGO's to inform local tribal leaders and journalists on the importance of legislation against domestic violence with a specific focus on spousal rape.

There is anecdotal evidence that a few small ethnic groups practice female genital mutilation (FGM), which is condemned widely by international health experts as damaging to both physical and psychological health.

Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of sex or marital status; however, in practice discrimination against women is pervasive, and women do not have opportunities equal to those available to men. Women have significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity. The literacy rate among women between the ages of 15 and 45 is less than 37 percent. Male literacy in the same age group is approximately 45 percent.

Women often have less access to legal and financial assistance, and wives often are victims of discriminatory inheritance practices in which the majority of the estate is taken unlawfully by the deceased husband's family. Women usually are at a disadvantage in marriage, family, and property rights, but they have begun to speak out against abuse and discrimination. Households headed by women are represented disproportionately in the lowest quarter of income distribution. In a country where 85 percent of the population is rural, the majority of farmers are women; 70 percent of the rural female population farm full time. Typically women work more hours than men to complete the same farm tasks because they rarely have comparable tools and equipment, and they remain responsible for all household tasks. Women have limited access to agricultural extension services, training, and credit. Some progress has been made in all of these areas with gender training for agricultural extension workers and the gradual introduction of rural credit programs for women. The participation of women in the limited formal labor market is particularly constrained; they constitute less than 5 percent of managerial and administrative staff.

The Law Commission has undertaken a review of legislation that discriminates against women and has proposed legislation to bring the law into compliance with new constitutional standards. Based on the Law Commission's recommendations, Parliament raised the minimum level of child support, increased widows' rights, and passed the Employment Act, which includes a provision granting women the right to maternity leave. However, only individuals who utilized the formal legal system benefited from these legal protections.

In 2000 women joined the army for the first time in noncombat positions as a result of a 1994 revision in the government directive that previously had prohibited women from military service. The Government commissioned a female officer in August, and 49 female recruits joined the armed services. During the year, there were new recruit classes of women, who are now serving both as officers and as enlisted personnel in the armed forces. The Government continued to study the possibility of allowing women to serve in combat



roles at year's end.

The Government addresses women's concerns through the Ministry of Gender, Youth, and Community Services.

#### Children

The Constitution provides for equal treatment of children under the law, and during the year, the Government continued a high rate of spending on children's health and welfare. The Government provides free primary education for all children, although education is not compulsory. Girls drop out of school more frequently than boys do, and in the final year of primary school, only approximately 25 percent of students are girls. Despite recent significant gains in girls' access to education, large gaps remain between girls' and boys' achievement levels. Girls, especially in rural areas, historically have been unable to complete even a primary education, and are therefore at a serious disadvantage in finding employment. Accepted economic and social practice hampers the ability of women and girls to gain an education. However, there have been signs of improvement in education for girls. In 1999, the last year for which data is available, girls entered primary school in the same proportion as boys, although only 39 percent of secondary school entrants were female.

Well over half of the country's children live in poverty, mostly in rural areas. Children in rural households headed by women are among the poorest. Only one-third of children have easy access to safe drinking water. Infant mortality is high, and child malnutrition is a serious problem. A few charitable organizations attempted to reduce the number of child beggars in urban areas and find alternative care for them. The problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. According to the National Statistic Office's Demographic and Health Survey of 2000, only 60 percent of children under age 15 currently live with both of their biological parents; 23 percent of children under age 15 live with only one parent, while 16 percent are orphans. HIV/AIDS is expected to result in an estimated 364,450 orphans, or 73 percent of all orphans, in the country by 2005. Extended family members normally care for such children and other orphans.

There are societal patterns of abuse of children. FGM is performed on girls (see Section 5, Women). The media also have begun to report on the sexual abuse of children, especially in relation to traditional practices of initiation. While rites to initiate girls into their future adult roles still are secret, information suggests that abusive practices are widespread and quite damaging. Although the age of sexual consent is 14, there is no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The belief that children are unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributes to the sexual abuse of minors. Child prostitution occurs, but it is not considered a serious problem.

Child labor, including instances of forced child labor, is a problem (see Sections 6.c. and 6.d.).

#### Persons with Disabilities

The Government has not mandated accessibility to buildings and services for persons with disabilities, but one of the national goals in the Constitution is to support persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society. There are both public and privately supported schools and training centers, which assist persons with disabilities. There also are several self-supporting businesses run by and for persons with disabilities. The Minister of State responsible for persons with disabilities is a cabinet-level position, which was held by a person with disabilities.

In December the Ministry responsible for persons with disabilities held a consultative workshop with representatives from NGO's and U.N. agencies to create a taskforce for the formulation of a new National Disability Policy (NDP). There never has been a review of the 1971 Handicapped Persons Act since its enactment, and the taskforce is charged with the development of a new NDP that addresses issues of equal opportunity and access for persons with disabilities.

#### Religious Minorities

There are generally amicable relations between the various religious communities, and unlike in the previous year, there were no reports of clashes between Muslims and Christians.

#### National/Racial/Ethnic Minorities

Citizens of African heritage are members of indigenous tribes and are not discriminated against by the Government or society. There is no legal discrimination against citizens of Asian heritage, although societal and economic tensions exist between the communities of African and Asian origin.

## Section 6 Worker Rights

### a. The Right of Association

The law governs labor-management relations. Workers have the legal right to form and join trade unions; however, union membership is low due to the small percentage of the work force in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police may not belong to trade unions, but other civil servants are allowed to form unions. Union leaders estimate that 15 percent of the formal sector workforce belong to unions; however, accurate statistics on the numbers of union members are not available. Trade union rights have existed for 8 years, and labor relations still are evolving. Employers, labor unions, and the Government lack sufficient knowledge of their legitimate roles in labor relations and disputes, which limits the effectiveness in the implementation and enforcement of the law.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor and Vocational Training (MOLVT). At year's end, 22 unions were registered. There are no unusually difficult registration procedures. Unions are independent of the Government, parties, and other political forces.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT. A registered union must attempt to resolve the issue through mediation. A strike can only occur after all dispute settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation procedures have failed. The law requires a notice in writing to the employer and the MOLVT at least 7 days before a strike. The law also forbids the temporary replacement of labor and allows peaceful picketing during strikes. Members of a registered union in "essential services" only have a limited right to strike. Essential services are specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population; they are determined by the Industrial Relations Court (IRC) upon application by the Minister of Labor. The law provides similar procedures for lockouts. Laws do not prohibit specifically retaliation against strikers. There is no prohibition on actions against unions that are not registered legally. Arbitration rulings are enforceable legally. However, due to the lack of funding and 2-year case backlog, the IRC cannot monitor cases and enforce the laws in practice adequately.

In March the support staff at the University of Malawi went on strike because they argued that the 40 percent wage increase that was approved by university management was insufficient. The University initially refused to negotiate with the strikers and asked the High Court to declare the strike illegal. The High Court refused to hear the case stating that the IRC had jurisdiction. The University did not refile the case with the IRC; however, the University negotiated the acceptance of the 40 percent increase with the leaders of the support staff by year's end.

In September medical workers from Queen Elizabeth Central Hospital in Blantyre went on strike after the hospital failed to grant salary increases that it promised to begin in July. The hospital negotiated an initial settlement for a risk premium increase, but the case still was pending Ministry of Labor approval at year's end. Due to the limited right to strike for essential services unions, the 28 leaders of the strike were suspended and restricted from travel outside the country pending prosecution for endangering the health and welfare of patients. Their cases were awaiting action at year's end.

In October teachers began a series of sporadic strikes and nonwork actions because of the differences between rural and urban salaries and benefits (see Section 6.e.). Although there were indications of progress, no formal settlement was announced by year's end. There were reports that up to 50,000 teachers participated in the strikes in the rural areas.

Unions may form or join federations and have the right to affiliate with and participate in international workers' organizations, with the permission of the Government. There are no restrictions on the number of union federations. There are two federations in the country: The Malawi Congress of Trade Unions (MCTU), with 19 affiliates; and the Congress of Malawi Trade Unions (COMATU), with 3 affiliates.

### b. The Right to Organize and Bargain Collectively

Unions have the right to organize and bargain collectively. The law requires that at least 20 percent of

employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level. The law requires at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions include wage negotiation, dispute resolution, and industry-specific labor policy development. The law is not implemented effectively in practice due to the lack of sufficient knowledge of the law by employers, trade unions, and government officials (see Section 6.a.). Collective agreements are binding legally, and both parties must deposit them with the Registrar of Trade Unions.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities.

At year's end, 20 firms held licenses to operate under export processing zone (EPZ) status, and all were operational. The full range of labor regulations applies to the EPZ's.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor; however, there are allegations that some large agricultural estates engage in the practice.

The Government does not prohibit specifically forced and bonded labor by children, and one local NGO reported that in urban areas, it is not uncommon to find young girls working outside of their family as domestic servants, receiving little or no wages, and existing in a state of indentured servitude (see Section 6.d.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution defines children as persons under 16 years of age, and the law prohibits the employment of persons less than 14 years of age. It also prohibits the employment of children less than 18 years of age in work that is hazardous, harmful, or interferes with their education. Significant child labor in agricultural work and domestic service occurs largely as a result of extreme poverty and long-standing cultural traditions. Budgetary constraints largely preclude minimum work age and child labor law enforcement by police and MOLVT inspectors. There is significant child labor on tobacco and tea farms, subsistence farms, and in domestic service. There is no special legal restriction on children's work hours.

In 2000 the Ministry of Labor began a 12-month International Labor Organization (ILO) funded study to establish the magnitude of child labor and to use the results as a basis for drafting an action plan to implement ILO Convention 182 on the worst forms of child labor. During the year, the MOLVT conducted a pilot study and trained evaluators for the full study, which is scheduled to begin in April 2002.

The law does not prohibit forced and bonded labor by children specifically, and there was at least one report that it occurred (see Section 6.c.).

#### e. Acceptable Conditions of Work

The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB) composed of representatives of labor, government, and the private sector. However, the TWAB has encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounts to approximately \$0.89 (MK 55) per day; in all other areas, it is roughly \$0.66 (MK 40.70) per day. Although minimum wage rates were raised in December 2000, they do not provide a worker and family with a decent standard of living. Wage earners tend to supplement their incomes through farming activities. The MOLVT lacks the resources to enforce the minimum wage effectively. However, the minimum wage largely is irrelevant for the great majority of citizens, who earn their livelihood outside the formal wage sector.

The maximum legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violate statutory time restrictions.

The law includes extensive occupational health and safety standards. Enforcement of these standards by the MOLVT is erratic. Workers--particularly in industrial jobs--often work without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove

themselves from dangerous work situations without jeopardy to continued employment. However, given the low level of education of most workers and the high level of unemployment, they are unlikely to exercise this right.

Mechanisms for protecting internationally recognized worker rights are weak. There are serious manpower shortages at the Ministry of Labor; as a result, there are almost no labor standards inspections.

The law protects foreign workers in correct legal status. Illegal foreign workers are subject to deportation.

According to the Government "policy statement and new guidelines" for the issuance and renewal of employment permits (the temporary employment permit or "TEP"), foreign investors may employ foreign personnel in areas where there is a shortage of "suitable and qualified" citizens. The guidelines also mandated that processing times for TEP applications shall not exceed 40 working days. Although the TEP program appears to function smoothly, the press has reported delays in application processing for at least one major company.

#### f. Trafficking in Persons

The law does not prohibit trafficking in persons specifically; however, the Penal Code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers, and there are indications, although not well documented, that some trafficking of women and girls does occur. It is believed that Malawian women are trafficked to South Africa. For example, in March a local newspaper reported that several young women were stranded in brothels in South Africa after being lured by false job offers. Despite a number of press reports, there was no indication of any police investigation of trafficking cases during the year. In 1999 a Malawian woman was tried and acquitted of luring three young women to the Netherlands and subsequently forcing them into prostitution.

The extent of the trafficking problem is undocumented, and neither the Government nor NGO's have viewed it as a problem; however, during the year, increasing media and NGO attention was devoted to the problem. The police and the Ministry of Gender, Youth, and Community Services handle any cases that arise.

In October a bill was introduced in the National Assembly, which proposed 14-year sentences for anyone convicted of promoting, managing, or transporting any person into or out of the country with the purpose of engaging that person in prostitution. The National Assembly is expected to vote on this bill during the 2002 session.

There is no government funding for NGO services to victims of trafficking, and there is no training for government officials on how to provide assistance to trafficking victims.